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IN THE HIGH COURT OF KARNATAKA AT BANGALORE
DATED THIS THE 8TH DAY OF JUNE 1998

BEFORE

THE HON'BLE MR.JUSTICE P.VISHWANATHA SHETTY

Writ Petition No.35855/1994

1. Balachandra Dondibhatta
Joshi, aged 70 years,
Occ: Agriculture,
Resident of Yadur,
Taluk: Chikodi,
District: Belgaum. 82 ✓
2. Ganapati Raoji Jadhav,
aged about 75 years,
Occ: Agriculture,
R/o Yadur, Taluk: Chikodi,
District: Belgaum. .. Petitioners

(By Sri Jayaprakash Reddy,
Advocate)

Vs.

1. The Assistant Commissioner,
Chikodi Sub-Division,
Chikodi,
District: Belgaum.
2. Mallayya Virupakshayya
Jade, major,
Resident of Yadur,
Taluk: Chikodi,
District: Belgaum. .. Respondents

(By Sri Raveendra Gowder,
Adv. for Respondent-2;
Sri B.E.Kotian,
Addl. Govt. Advocate for
Respondent-1)

Writ Petition filed under Articles 226 and 227 of
the Constitution of India with an affidavit seek-
ing for the quashing of the order dated 25-6-1994
passed by the first respondent vide Annexure-E, etc.

This petition coming on for hearing before Court
this day, the Court made the following:


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O R D E R

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In this petition, the petitioners have called in question the correctness of the order dated 25th of June 1994, a copy of which has been produced as Annexure-E, passed by the first respondent declaring the sale of the land measuring 15 guntas in Survey No.21/7 and 28 guntas in Survey No.52/4, both situated at Yadur village, Chikodi Taluk, Belgaum District, by the second petitioner in favour of the first petitioner by means of registered sale deed dated 23rd of November 1990, as null and void.

2. Sri Jayaprakash Reddy, learned Counsel appearing for the petitioners, submitted that the order Annexure-E is totally illegal and one without jurisdiction as, on the date of the passing of the said order, the Karnataka Prevention of Fragmentation and Consolidation of Holdings Act, 1966 (hereinafter referred to as "the Act"), was not in force as the said Act came to be repealed with effect from 5th of February 1992.



3. Sri Raveendra Gowder, learned Counsel appearing for the second respondent, is unable to dispute that the Act came to be repealed with effect from 5th of February 1992.

4. Since the Act had been repealed with effect from 5th of February 1992, as rightly pointed out by Sri Jayaprakash Reddy, the first respondent could not have passed the impugned order Annexure-C in the purported exercise of the power conferred on him under the Act.

5. However, Sri Gowder submitted that since on the date of the transaction, the Act was in force, the first respondent was justified in declaring the transaction as null and void.

6. I do not find any merit in the said submission of Sri Gowder. Since the Act has been repealed, the transaction in question could not have been declared as null and void by the first respondent.



7. For the reasons stated above, the order impugned is liable to be quashed.

8. Accordingly, the impugned order Annexure-E dated 25th of June 1994 passed by the first respondent is hereby quashed.

9. In terms stated above, this petition is allowed and disposed of. Rule issued is made absolute.

10. Sri B.E.Kotian, learned Government Advocate, is permitted to file his memo of appearance within four weeks from today.

Sd/-
JUDGE



ANB.